

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

John W. and Carrie L. Zink,

Chapter 7

Debtor(s).

BK 04-31521 GFK

SUPPLEMENT TO MOTION TO DISMISS CHAPTER 7 CASE

1. The United States Trustee's motion to dismiss is set for hearing on September 20, 2004, at 3:00 p.m. before the United States Bankruptcy Court, Courtroom 228B, United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.

2. The United States Trustee filed a motion to dismiss on June 18, 2004 pursuant to 11 U.S.C. § 707(a) and (b), after debtors failed to submit documentation requested in the U.S. Trustee's letter dated May 3, 2004.

3. The parties have exchanged correspondence to reach a resolution, but the U.S. Trustee does not have sufficient cause to withdraw his motion at this time.

4. Under cover letter dated June 30, 2004, counsel for the debtors forwarded pay stubs for the debtors. Att. Ex. 1.^{1/}

5. In the cover letter, counsel makes the following points:

- a. Parties were "between jobs" when they filed bankruptcy [March 15, 2004].
- b. The May 15, 2004 pay stub for Mr. Zink was for "all of 2004".
- c. Ms. Zink's net income was only \$ 1,772.91 through June 2004.

^{1/} The U.S. Trustee redacted social security numbers from the pay stubs on the exhibits due to the fact that this supplement is subject to unlimited public access on the internet. To the extent there is an objection, the original copies may be made available to debtors upon request.

6. The United States Trustee responded by letter dated July 6, 2004, wherein he raised the following points (Att. Ex. 2):

- a. The net income figure for Ms. Zink did not include the tips she earned, which brought her average net income to \$ 1,244.23 per month.
- b. Mr. Zink's information was inconclusive because it could not be determined how long he worked at Mortgages Unlimited, Ltd.

7. By letter dated August 4, 2004, counsel for the debtor forwarded new pay stubs for Mr. Zink at American Alliance Mortgage, Inc. dated 7/16/04 and June 12, 2004 (Att. Ex. 3) and made the following points:

- a. Mr. Zink's income at Mortgage Unlimited in the May 14, 2004 pay stubs was for four months (mid-January 2004), which statement contradicts earlier statements that the debtors were between jobs in March 2004 when the case was filed.^{2/}
- b. Mr. Zink's income at American Alliance Mortgage through July 16, 2004 totaled \$ 10,883 over 3.3 months for the period ending July 10, 2004 (approximately April 10, 2004), which timing contradicts the Mortgage Unlimited pay stub which shows he was working there at least through the pay period ended May 15, 2004.
- c. Mr. Zink ceased working in the mortgage industry and was looking for new work.

^{2/} The United States Trustee does not imply that any contradictions noted were intentional; the job switches during the case were confusing and their status, particularly Mr. Zink, changed at each U.S. Trustee inquiry.

8. After phone discussions, the United States Trustee sent a letter dated August 20, 2004, to request pay stubs for Mr. Zink for his new employment and the 2002 and 2003 tax returns of the debtors (Att. Ex. 4).

9. Under cover letter dated August 24, 2004, counsel provided copies of the tax returns, but did not provide any information regarding Mr. Zink's new employment, but refers to the new job as one to "improve their income." Att. Ex. 5.^{3/}

10. The United States Trustee assumes that counsel is arguing that the income from the new job should not be considered under the future income test of 11 U.S.C. § 707(b). The United States Trustee disputes this argument, if this is so, on the basis that in this Circuit the prevailing test is the ability to pay out of future income. See In re Walton, 866 F.2d 981, 983-984 (8th Cir. 1989) (holding that the court looks to "the debtor's ability to pay his debts out of his **future** income"). [Emphasis added.].

Other courts have also held that ability to pay out of future income is appropriate, not the income on the date of the petition. See In re Mastromarino, 197 B.R. 171, 179-80 (Bankr. D. Me. 1996) (finding substantial abuse where unemployed debtor obtains employment after filing and can make payments under his new salary); Stewart v. U.S. Trustee (In re Stewart), 175 F.3d 796, 809-810 (10th Cir. 1999) (finding substantial abuse where debtor, a physician, was employed in a low-paying medical fellowship program at the time of the filing of the petition, but the court considered the debtor's potential to earn substantially more in the future upon completion of the fellowship); In re Piontek, 113 B.R. 17, 19-22 (Bankr. D. Or. 1990) (finding substantial abuse after considering postpetition changes in the debtors' income and expenses where one of the debtors changed her employment approximately five months after the filing of the petition); In re Laury-Norvell, 157 B.R.

^{3/} The copies of the tax returns are not attached due the difficulty of redacting information, but may be made available at a hearing or upon request by the debtors.

14, 17 (Bankr. N.D. Ohio 1993) (finding no substantial abuse where court found that income listed in schedules as of date of filing was unlikely to continue postpetition).

Using the income going forward is appropriate as a matter of equities as well. The converse of the situation in this case is a debtor who was employed on the date of the petition, but lost his or her job post petition, failed to find replacement employment, or found employment at a lower rate. The decision of whether to look at the ability to pay test from the petition date (Schedule I and Schedule J) or from a prospective position favors a prospective view.

11. The United States Trustee is also concerned regarding the schedules in this case. The debtors' sworn Schedule I and Schedule J shows a deficit of \$ 873.33 (Schedule I \$ 3,162.67 - Schedule J \$ 4,036.00. The cause of the deficient appears to be that the debtors are paying approximately \$ 2,836.00 per month on the house and its maintenance (\$ 2,446.00 in monthly payments, \$ 250.00 in electricity, \$ 60 in sewer and water, \$ 50 maintenance, \$ 30 in water service, for a total cost of \$ 2,836.00 per month). The negative household budget suggests that the debtors are not seeking a fresh start in this bankruptcy case, or that the debtors have a source of income or loans not disclosed or apparent in the bankruptcy schedules. *See In re Veenhuis*, 143 B.R. 887 (Bankr. D. Minn. 1992)(Dreher, J.).

WHEREFORE, the United States Trustee files this supplement in support of his motion to dismiss under 11 U.S.C. § 707.

Dated: September 8, 2004

Respectfully submitted,

HABBO G. FOKKENA
United States Trustee
Region 12

By: /s/ Sarah J. Wencil
Sarah J. Wencil
Trial Attorney

United States Trustee's Office
1015 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415
IA ATTY No. 14014
(612) 664-5500
(612) 664-5516

Exhibit 1

GRANNIS & HAUGE RECEIVED

LEGAL SERVICES TO INDIVIDUALS, BUSINESSES AND CITIES SINCE 1908.

2004 JUL -1 A 9:25

OFFICE OF THE
UNITED STATES TRUSTEE

June 30, 2004

WARD R. ANDERSON
MICHAEL J. DWYER*
VANCE B. GRANNIS, JR.
DAVID G. KELLER
MICHAEL J. MAYER
BARRY L. WITTENKELLER**
VIRGINIA A. DWYER
WILLIAM L. BERNARD
STEPHEN A. BAKER***
PATRICK L. COTTER
JEFFREY D. CAHILL
PAUL H. HAUGE
(of Counsel)

* Also admitted to practice in
Wisconsin

** Also admitted to practice in
Illinois

*** Also admitted to practice in
Florida

Ms. Sara Wencil
U.S. Trustee's Office
1015 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415

**Re: John W. and Carrie L. Zink
Bankruptcy Case No. 04-31521**

Dear Ms. Wencil:

Pursuant to our discussion, I am enclosing pay stubs on behalf of our clients, John W. Zink and Carrie L. Zink. I had indicated to you that at the time of the bankruptcy, the parties did not have pay checks, were between jobs, or were not earning any income. I believe the pay stubs will bare that out. The pay stub for John Zink is from Mortgages Unlimited Inc., which shows that his income for all of 2004 through May 15, was \$4,368.06. Because he was behind on his insurance premiums, \$2,506.90 of that went to medical and dental insurance. As you can see, after typical withholding, he netted very little income from Mortgages Unlimited.

We also have two pay stubs for Carrie L. Zink, showing she works at a minimum pay scale and has had net income of only \$1,772.91 through June.

We hope this answers the concerns that we discussed. Our clients would appreciate verification of the dismissal of the motion at your earliest convenience.

Sincerely yours,

GRANNIS & HAUGE, P.A.

By: 
David G. Keller

DGK/svk
Enc.
c: John and Carrie Zink

CARRIE L ZINK

JOE SENSER'S

EMPLOYEE [REDACTED]	DIVISION [REDACTED]	PERIOD BEGIN 04/26/2004	
COMPANY [REDACTED]	BRANCH [REDACTED]	PERIOD END 05/09/2004	
CHECK NO [REDACTED]	DEPARTMENT [REDACTED]	CHECK DATE 05/14/2004	
	HIRE DATE 02/18/2004		
	FED/ST. STATUS M1/M1		

EARNINGS

TAXES AND DEDUCTIONS

DESCRIPTION	RATE	HOURS	CURRENT	YEAR TO DATE	LOCATION AND JOB OVERRIDES	DESCRIPTION	CURRENT	YEAR TO DATE
REGULAR EARNING	51500	3135	16145	182073	7033	FEDERAL W/H	1699	18076
REGULAR EARNING	80000	348	2784		7025	OASDI	3700	27089
REGULAR EARNING	51500	1551	7988			MEDICARE	865	6335
OVERTIME EARNIN				6041		STATE W/H MN	1197	11399
GROSS SALES -M			221629	2225927		TIPS (OUT)	32762	248797
TIPS (IN)			32762	248797		UNIFORMS		3600
GROSS EARNINGS		5034	59679	436911		TOTAL DEDUCTIONS	40223	315296
						NET PAY	19456	121615

CARRIE L ZINK

JOE SENSER'S

EMPLOYEE [REDACTED]	DIVISION [REDACTED]	PERIOD BEGIN 06/07/2004	
COMPANY [REDACTED]	BRANCH [REDACTED]	PERIOD END 06/20/2004	
CHECK NO [REDACTED]	DEPARTMENT [REDACTED]	CHECK DATE 06/25/2004	
	HIRE DATE 02/18/2004		
	FED/ST. STATUS M1/M1		

EARNINGS

TAXES AND DEDUCTIONS

DESCRIPTION	RATE	HOURS	CURRENT	YEAR TO DATE	LOCATION AND JOB OVERRIDES	DESCRIPTION	CURRENT	YEAR TO DATE
REGULAR EARNING	51500	2382	12267	257582	7033	FEDERAL W/H		22284
REGULAR EARNING	51500	1457	7504			OASDI	2405	37397
OVERTIME EARNIN				6041		MEDICARE	562	8746
GROSS SALES -M			133384	2857268		STATE W/H MN	079	14305
TIPS (IN)			19022	339541		TIPS (OUT)	19022	339541
						UNIFORMS		3600
GROSS EARNINGS		3839	38793	603164		TOTAL DEDUCTIONS	22068	425873
						NET PAY	16725	177291

MORTGAGES UNLIMITED INC.

Employee (763) 416-2600

Zink, John W, 6411 Beckman Court, Inver Grove Heights, MN 55077

Status (Fed/State)

Married/Married

Pay Period: 05/01/2004 - 05/15/2004

Allowances/Extra

Fed-1/0/MN-1/0

Pay Date: 05/14/2004

423.92 1,494.78

Earnings and Hours	Qty	Rate	Current	YTD Amounts
LO Commission		2,447.87	2,447.87	4,368.06

Deductions From Gross	Current	YTD Amounts
Medical Insurance (Emp POP)	-841.76	-2,104.40
Dental Insurance (Emp POP)	-161.00	-402.50
	-1,002.76	-2,506.90

Taxes	Current	YTD Amounts
Federal Withholding	-118.00	-118.00
Social Security Employee	-89.59	-115.39
Medicare Employee	-20.96	-26.99
MN - Withholding	-56.00	-56.00
	-284.55	-316.38

Adjustments to Net Pay	Current	YTD Amounts
Advances	-736.64	-50.00
Advance Fee	-736.64	-50.00

29150

Exhibit 2



U.S. Department of Justice

Office of the United States Trustee

*Districts of Minnesota, North Dakota,
South Dakota and Iowa*

U.S. Courthouse Suite 1015
300 South Fourth Street
Minneapolis, MN 55415

Direct Dial: (612) 664-5504
Fax: (612) 664-5516
e-mail: Sarah.J.Wencil@usdoj.gov

July 6, 2004

FAX AND MAIL

David G. Keller
Grannis & Hauge, P.A.
200 Town Centre
1260 Yankee Doodle Rd.
Eagan, MN 55121-2201

Re: *John & Carrie L. Zink*, Bankr. No. 04-31521

Dear Mr. Keller:

Thank you for forwarding the pay stubs. I do not have enough information from the pay stubs to make a final determination, particularly as to John Zink's pay stubs.

While you note that the net income for Carrie Zink is \$ 1,772.91 for 2004 through June 20, 2004, the net income figure includes a deduction of \$ 3395.41 for tips, which, I assume, was deducted because the tips were paid in cash by the customers, rather than through her employer pay. After that deduction is adjusted, her actual net income is \$ 5,168.32. June 20, 2004 appears to be the end of the 11th pay period of the year, but the pay stub of Ms. Zink provides that she did not commence her employment until February 18, 2004, which is approximately 9 pay periods from June 20, 2004. $\$ 5,168.32 \text{ divided by } 9 = \$ 574.25 \text{ per pay period average} \times 26 \text{ pay periods} = \$ 14,930.70 \text{ divided by } 12 \text{ months} = \$ 1,244.23 \text{ average net pay per month.}$

For John Zink, I cannot determine how long he has worked at this company, nor do I have any information showing that he is paid on anything other than a bi-monthly basis. Your letter states that this is his income for all of 2004, but in our earlier phone conversation, you stated that he switched mortgage companies in 2004. The overall appearance of the pay stub is that this is his second pay period, but that the first pay period was only a partial period (i.e. that is he started working only in the period prior to this stub). You have stated or implied that he is irregularly paid (e.g. only when he scores his commission), but I cannot make that conclusion on the basis of the one pay stub provided. Also, I have no information regarding his regular medical and dental withholdings and the amount of the advance that is being paid back. If his payment of \$ 1,002.76 to bring current his medical premiums is temporary, then it should decrease and increase his net once the premiums are paid.

As it looks with the one pay stub for Mr. Zink, if I treat the one pay stub as representative of his pay and as regular, the adjusted net could be interpreted to be: $\$ 847.84 \text{ net} + \$ 736.64 \text{ (pay back of advance, which is typically temporary)} + 1002.76 \text{ (medical and dental temporary payments)} = \$ 2,163.32 \text{ adjusted net}$

income. Estimating regular medical and dental payments of about \$ 200 per pay period, it would adjust the net to \$ 1,963.32 x 2 pay periods per month = approximately \$ 3,926.64 average net pay per month.

The debtors clearly have disposable income if these figures are correct. But, as noted before, I do not have enough documentation to conclude that the numbers are correct. The deficiencies in medical and dental would certainly be caused by irregular income (but, training or other start-up obligations would also cause a delay in a pay stub), so I do not discount your representations at all, I just do not have enough information regarding the representations to support withdrawing the motion to dismiss.

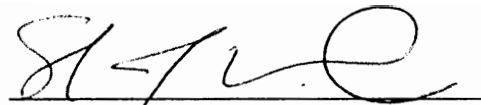
If you could provide more pay stubs for John Zink, for example all of the pay stubs received in June or a sequential series of pay stubs, his employment contract, etc., I can make a more accurate determination. If you disagree with the analysis for Ms. Zink, please feel free to provide additional, more current pay stubs for her as well.

Please note that I am out of the U.S. Trustee office from July 19, 2004 to July 30, 2004 (I am working in another office, so I will have access to e-mail during that period). Therefore, if you would like me to review the pay stubs prior to the hearing (and without having to file a response on your part), please provide the additional information soon.

Please call if you have a question or concern about this letter.

Sincerely,

HABBO FOKKENA
UNITED STATES TRUSTEE

A handwritten signature in black ink, appearing to read 'Sarah J. Wencil', written over a horizontal line.

Sarah J. Wencil
Trial Attorney

Exhibit 3

GRANNIS & HAUGE P.A.

LEGAL SERVICES TO INDIVIDUALS, BUSINESSES AND CITIES SINCE 1908.

RECEIVED

2004 AUG -5 A 9:21

OFFICE OF THE
UNITED STATES TRUSTEE

August 4, 2004

Ms. Sarah J. Wencil
United States Trustee's Office
1015 United States Courthouse
300 South Fourth St.
Minneapolis, MN 55415

**Re: John Wayne Zink and Carrie Lynn Zink
Bankruptcy Case No. 4-31521**

Dear Ms. Wencil:

Enclosed please find our client's last two checks with American Alliance Mortgage, Inc. As you will recall in our client's Petition, he claimed gross income of \$3,750 a month based upon his estimate of what he could make in the mortgage lending business. It is our understanding that with Mortgage Unlimited, he made \$4,366 over a four month period, or \$1,091 per month, while with American Alliance Mortgage he made \$10,883 over 3.3 months, or \$3,298 gross per month. Both these numbers are well below the numbers used in his Petition and, if averaged out, result in a gross income of \$2,089 per month, or almost \$1,700 less than the Petition number. This does not take into consideration the amount of health insurance he had to pay catch-up on with Mortgage Unlimited. He has ceased working in the mortgage industry and is looking for new work.

In regard to Mrs. Zink, she started work at Joe Senser's as a waitress, and continues in that capacity. At the time of the Petition, she had just started or was about to start, and was estimating her pay. While her tips have somewhat raised her income above the estimated \$750 a month, a review of the paychecks that were sent to you will show that there was very little withholding in Mrs. Zink's paychecks, which will result in an obligation to the IRS and Department of Revenue. In any case, their combined income are well below the amount claimed in the Petition.

WARD R. ANDERSON
MICHAEL J. DWYER*
VANCE B. GRANNIS, JR.
DAVID G. KELLER
MICHAEL J. MAYER
BARRY L. WITTENKELLER**
VIRGINIA A. DWYER
WILLIAM L. BERNARD
STEPHEN A. BAKER***
PATRICK L. COTTER
JEFFREY D. CAHILL
PAUL H. HAUGE
(of Counsel)

* Also admitted to practice in
Wisconsin

** Also admitted to practice in
Illinois

*** Also admitted to practice in
Florida

Ms. Sarah J. Wencil
August 4, 2004
Page Two

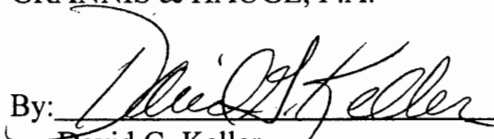
We hope this resolves your concerns and addresses the issues in a proper manner, allowing for the case to proceed to discharge.

Please feel free to contact me with regard to any questions you may have.

Sincerely yours,

GRANNIS & HAUGE, P.A.

By:



David G. Keller

DGK/svk

Enc.

c: John and Carrie Zink

YOUR BANKING

EARNINGS

HOURS

RATE

AMOUNT

YTD AMOUNT

COMM

3264.00

TOTAL EARNINGS

3264.00

10883.66

EMPLOYER INFORMATION

AMERICAN ALLIANCE MORTGAGE INC
125 LAKE ST W
WAYZATA.MN 55391

FILING STATUS

TAX TYPE

AMOUNT

YTD AMOUNT

M 02
M 02

SOC SEC
MEDICARE
FEDERAL
MN

191.88
44.87
391.39
164.89

653.80
152.90
1270.58
530.72

PAY PERIOD 06/27/04 TO 07/10/04
CHECK DATE 07/16/04 CHECK # 11613

TOTAL WITHHOLDINGS

793.03

2608.00

PERSONAL INFORMATION

JOHN W ZINK
6411 BECKMAN CT
INVER GROVE HEIGHTS MN 55077

ADJUSTMENTS

AMOUNT

YTD AMOUNT

HLTH
DENTL
LOAN REPAY

157.84 -
11.37 -

315.68 -
22.74 -
700.00 -

TOTAL ADJUSTMENTS

169.21-

AYROLLS BY **PAYCHEX**

0056 K999 0055 000503

NET PAY

2301.76

7237.24

*

YOUR BANKING**EARNINGS****HOURS****RATE****AMOUNT****YTD AMOUNT**

COMM

2263.30

TOTAL EARNINGS

2263.30

5891.08

EMPLOYER INFORMATIONAMERICAN ALLIANCE MORTGAGE INC
14276 23RD AVE N
PLYMOUTH, MN 55447**FILING STATUS****TAX TYPE****AMOUNT****YTD AMOUNT**

M 02

SOC SEC

140.32

365.24

M 02

MEDICARE

32.82

85.42

FEDERAL

230.07

754.71

MN

106.27

308.74

PAY PERIOD 05/30/04 TO 06/12/04
CHECK DATE 06/18/04 CHECK # 11491

TOTAL WITHHOLDINGS

509.48

1514.11

PERSONAL INFORMATION**ADJUSTMENTS****AMOUNT****YTD AMOUNT**JOHN W ZINK
6411 BECKMAN CT
INVER GROVE HEIGHTS MN 55077PAYROLLS BY **PAYCHEX**

0056 K999 0068 000503

NET PAY

1753.82

4376.97

Exhibit 4



U.S. Department of Justice

Office of the United States Trustee

*Districts of Minnesota, North Dakota,
South Dakota and Iowa*

U.S. Courthouse Suite 1015
300 South Fourth Street
Minneapolis, MN 55415

Direct Dial: (612) 664-5504
Fax: (612) 664-5516
e-mail: Sarah.J.Wencil@usdoj.gov

August 20, 2004

David G. Keller
Grannis & Hauge P.A.
200 Town Centre Professional Building
1260 Yankee Doodle Rd.
Eagan, MN 55121-2201

Re: John Wayne and Carrie Lynn Zink, Bankr. No. 04-31521

Dear Mr. Keller:

This letter is to follow up our last conversation regarding the pending Section 707(b) motion.

As I understand it, Mr. Zink has switched jobs to a new company. Please provide his most recent pay stubs from his new employment and any employment contract regarding his employment prior to the hearing on September 20, 2004.

Also, provide the 2002 and 2003 state and federal tax returns for the debtors. These documents were originally requested, but you had requested that I look at pay stubs prior to submitting them, and I do not believe the documents were ever provided.

Please call if you have a question or concern about this letter.

Sincerely,

HABBO FOKKENA
UNITED STATES TRUSTEE

Sarah J. Wencil
Trial Attorney

Exhibit 5

GRANNIS & HAUGE P.A.

LEGAL SERVICES TO INDIVIDUALS, BUSINESSES AND CITIES SINCE 1908.

2004 AUG 25 A 9:39

OFFICE OF THE
UNITED STATES TRUSTEE

August 24, 2004

WARD R. ANDERSON
MICHAEL J. DWYER*
VANCE B. GRANNIS, JR.
DAVID G. KELLER
MICHAEL J. MAYER
BARRY L. WITTENKELLER**
VIRGINIA A. DWYER
WILLIAM L. BERNARD
STEPHEN A. BAKER***
PATRICK L. COTTER
JEFFREY D. CAHILL
PAUL H. HAUGE
(of Counsel)

* Also admitted to practice in
Wisconsin

** Also admitted to practice in
Illinois

*** Also admitted to practice in
Florida

Ms. Sarah J. Wencil
United States Trustee's Office
1015 United States Courthouse
300 South Fourth St.
Minneapolis, MN 55415

**Re: John Wayne Zink and Carrie Lynn Zink
Bankruptcy Case No. 4-31521**

Dear Ms. Wencil:

Pursuant to our last discussion, I have asked our clients to provide more current pay stubs in regard to John Zink's new job. It is our understanding that a debtor is allowed to attempt to improve their income, even after filing for bankruptcy. As you will recall, this case was filed on March 15, 2004, more than five months ago. Since that time, John Zink has changed jobs twice, trying to improve their financial situation so that they may actually keep their exempt property.

Pursuant to your most recent call I have reviewed our file, which includes the 2002 and 2003 income tax information. This information was provided to us by John Zink in May, 2004. We thought the information had been forwarded to your office. As you can see from the forms attached hereto, the combined income of John and Carrie Zink for 2002 was only \$32,802. Attached are W-2's indicating that in 2002, John Zink worked for Bryde, Inc. and Carrie worked for the Ground Round, Inc., in Burnsville, which has since closed. As a result, she obtained employment at Joe Senser's, of Eagan. In 2003, the Zinks made a gross income of \$64,054. During 2003, the Ground Round closed and Carrie Zink became more reliant upon Joe Senser's for her income. John Zink, lost his job with Bryde, Inc., where he earned only \$530 in 2003. He spent a short time with New Century Mortgage, as a mortgage broker, where he made \$1,357. He worked the majority of the year for Mortgages Unlimited, Inc. John also did some pizza delivery for Papa John's International.

(651) 456-9000 Facsimile: (651) 454-4232

200 TOWN CENTRE PROFESSIONAL BUILDING • 1260 YANKEE DOODLE RD. • EAGAN, MINNESOTA 55121-2201

www.grannishauge.com

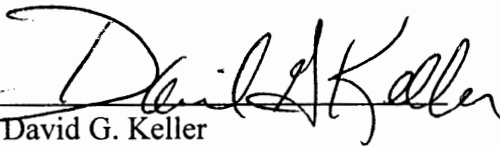
Ms. Sarah J. Wencil
August 24, 2004
Page Two

From pay stubs we sent you before, it is apparent that things did not progress well at Mortgage Unlimited, where Mr. Zink earned only \$4,366 over the first four months of 2004. This \$1,091 per month income was the cause that led to the filing of the bankruptcy. He did switch to American Alliance Mortgage, where he made \$10,883 over a 3.3 month period, or \$3,298 gross per month.

We believe it is clear that the Zinks filed a good faith petition for bankruptcy. We hope this additional information clarifies their financial information and will allow for the dismissal of the upcoming hearing now that the information has been provided, as requested.

Sincerely yours,

GRANNIS & HAUGE, P.A.

By: 
David G. Keller

DGK/svk
Enc.
c: John and Carrie Zink

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

John W. and Carrie L. Zink,

Chapter 7

Debtor(s).

BK 04-31521 GFK

CERTIFICATE OF MAILING

I, Terri Frazer, certify under penalty of perjury that I am an employee in the Office of the United States Trustee for the District of Minnesota and am a person of such age and discretion as to be competent to serve papers.


That on September 8, 2004, I served a copy of the Supplement to Motion to Dismiss Under 11 U.S.C. §707 in the above-referenced case by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Minneapolis, Minnesota.

Addressee(s):

David Keller (fax and mail)
Grannis & Hauge PA
1260 Yankee Doodle Road, Suite 200
Eagan, MN 55121

John and Carrie Zink
6411 Beckman Court
Inver Grove Heights, MN 55077

Nauni Jo Manty
Rider Bennett LLP
333 South Seventh Street, Suite 2000
Minneapolis, MN 55402



**Office of the United States Trustee
Terri Frazer**